

Thomas E. Lubnau
LUBNAU LAW OFFICE, PC
PO Box 1028
Gillette, Wyoming 82717
Phone: (307) 682-1313
Fax: (307) 682-9340
Email: tom@etseq.com

Philip A. Nicholas
NICHOLAS & TANGEMAN, LLC
PO Box 928
Laramie, Wyoming
Phone: (307) 742-7140
Fax: (307) 742-7160
Email: nicholas@wyolegal.com

**UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING**

ROBERT ALLEN HARVEY and ELAINE
HARVEY,
Plaintiffs,

vs.

HALLIBURTON ENERGY SERVICES, INC.,
Defendant.

)
)
) **CIVIL ACTION**
) **NO. 19-cv-27**
)
)
)
)
)

**PLAINTIFF’S RESPONSE AND OPPOSITION
TO DEFENDANT’S MOTION TO COMPEL ARBITRATION AND DISMISS, OR IN
THE ALTERNATIVE, TO STAY THE PROCEEDINGS**

Plaintiffs Robert Allen Harvey and Elaine Harvey oppose *Defendant’s Motion to Compel Arbitration and Dismiss, or in the Alternative, to Stay the Proceedings* on the basis that:

1. Defendant Halliburton, Inc (“Halliburton”) seeks to compel arbitration under a unilaterally imposed Dispute Resolution Plan” (“DRP”);
2. Defendant seeks to impose the DRP upon Mr. Harvey, who was an at will employee, by showing that they mailed the plan to his personal residence well after his employment began, which did not constitute a valid offer;

3. Halliburton concedes it did not provide the plan to Mr. Harvey at the time of his initial employment, and that it has no evidence that Mr. Harvey read or agreed to the DRP Halliburton's request because there was and is no agreement between the parties to enforce;

4. Halliburton fails to show that it provided adequate consideration to unilaterally amend Mr. Harvey's at will employment relationship with the Company; and

5. The BRP plan does not apply to Ms. Harvey.

This response and opposition is supported by the following:

1. Plaintiffs' Brief in Opposition to Defendant's Motion to Compel Arbitration and Dismiss, or in the Alternative, to Stay the Proceedings filed this same date;

2. The Declaration of Robert Allen Harvey attached hereto as Exhibit RAH-1 which includes the following attachments:

Exhibit A: Documents provided by Halliburton on Termination

Exhibit B: October 30, 2017 Request for arbitration agreement

Exhibit C: December 11, 2107 Determination

Exhibit D: Proposed Conciliation Agreement

Exhibit E: December 19, 2017 Halliburton Response to Lubnau Letter

Exhibit F: January 9, 2018 Acceptance of Conciliation Amount

Exhibit G: February 26, 2018 Hallibuton rejection of effort to conciliate

Exhibit H: March 1, 2018 WFEP Final Determination

3. The documents filed by Halliburton as Docket Document 7.

Wherefore, Plaintiff moves that Court deny Defendant's motion and direct that this matter proceed to a jury trial.

Dated: February 26, 2019.

/s/ Philip A. Nicholas

Philip A. Nicholas, No. 5-1785
Meggan J. Nicholas, No. 7-4856
NICHOLAS & TANGEMAN, LLC
170 North Fifth Street
Laramie, WY 82073-0928
Tel: (307) 742-7140 - Fax: (307) 742-7160

Thomas E. Lubnau
LUBNAU LAW OFFICE, PC
PO Box 1028
Gillette, Wyoming 82717
Phone: (307) 682-1313
Fax: (307) 682-9340

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on February 26, 2018 I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to all registered counsel of record.

/s/ Philip A. Nicholas